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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,515	03/30/2004	Antonio Brigato	1855-16	6132

7590

12/29/2005

John S. Egbert
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7th Floor
412 Main Street
Houston, TX 77002

EXAMINER

SELLS, JAMES D

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/813,515

Applicant(s)

BRIGATO, ANTONIO

Examiner

James Sells

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brault et al (US Patent 5,601,959).

Brault discloses a method for applying a transferable image 18 to a permanent receptor 20, such as a wall (col. 5, line 33) comprising the steps of:

(1) Applying a transferable image 18 onto the surface of a transfer sheet 24, 26 via a computer driven printer (Figures 1 and 5 and col. 4, lines 38-62);

(2) Applying an adhesive coating or binder 22 onto the wall and also applying adhesive onto the transferable image 18 applied to the transfer sheet 24, 26 (col. 5, lines 41-43 and col. 6, lines 24-26);

(3) Placing the transfer sheet 24, 26 against the wall with the transferable image 18 in contact with the adhesive 22 (col. 6, lines 58-60);

(4) Applying heat and/or pressure to press the transfer sheet 24, 26 against the wall 20 to bond and transfer the transferable image 18 thereto via the adhesive layers (col. 6, lines 60-63); and

(5) Removing the transfer sheet carrier 24 from the wall (col. 6, lines 64-67).

With regards to the adhesive applied to either or both of the transferable image and the wall, Brault discloses that it may exhibit tackiness at room temperatures, or may be non tacky at room temperatures and be heat or pressure activated (col. 5, lines 52-54). Brault also discloses that the transferable image 18 is printed by an electrographic (i.e. electrostatic) printer (col. 4, lines 39-55). At col. 5, lines 30-40, Brault discloses that the permanent receptor or wall 20 and may be rigid or semi-rigid sheeting or plating such as glass, ceramic, cardboard or brick wall.

It is the examiner's position that it would have been obvious to one having ordinary skill in the art to overcoat the transferable image with a varnish since Brault suggests that further protective overcoatings can be applied over the transferable image 18 in order to provide better image protection, solvent, UV and stain resistance (col. 9, lines 40-55). Although they do not specifically disclose that the coating comprises a varnish or the various types of sealants, one having ordinary skill in the art would appreciate that many protective materials including varnished, shellacs, clear paint, etc. could be used in conjunction with the method of Brault et al. In addition, plaster is a well known wall components and drying coatings is well known and conventional in the art and would have been obvious to employ in the method of Brault described above.

Response to Arguments

3. Applicant's arguments filed 9-30-05 have been fully considered but they are not persuasive.

Applicant argues the invention of Brault cannot be used on a permanent wall and thus fails to teach applicant's claimed invention. The examiner disagrees. Applicant's claims merely recite a permanent wall without any limitations of the size, shape or configuration of such a wall. Therefore since Brault discloses that the permanent receptor or wall 20 and may be rigid or semi-rigid sheeting or plating such as cardboard or brick wall (see col. 5, lines 30-40), it is the examiner's position that Brault teaches the permanent wall structure as claimed by the applicant. Thus applicant's argument is believed to be incorrect in this instance.

Telephone/Fax

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Sells whose telephone number is (571) 272-1237. The examiner can normally be reached on Monday-Friday between 9:30 AM and 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla can be reached at (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.


Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

A handwritten signature in black ink, appearing to read 'JSa', with a long horizontal stroke extending to the right.

JAMES SELLS
PRIMARY EXAMINER
TECH. CENTER 1700